

**VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM  
GEBIET DES PATENTWESENS**

**PCT**

**INTERNATIONALER VORLÄUFIGER BERICHT ÜBER DIE  
PATENTIERBARKEIT**

(Kapitel II des Vertrags über die internationale Zusammenarbeit auf dem Gebiet des Patentwesens)

REC'D 23 JAN 2006

WIPO

PCT

Aktenzeichen des Anmelders oder Anwalts 0000054936/SUE	<b>WEITERES VORGEHEN</b> siehe Formblatt PCT/IPEA/416	
Internationales Aktenzeichen PCT/EP2004/010721	Internationales Anmeldedatum (Tag/Monat/Jahr) 24.09.2004	Prioritätsdatum (Tag/Monat/Jahr) 30.09.2003
Internationale Patentklassifikation (IPK) oder nationale Klassifikation und IPK D06P1/52, D06M15/356, D06P3/60		
Anmelder BASF AKTIENGESELLSCHAFT et al.		
1. Bei diesem Bericht handelt es sich um den Internationalen vorläufigen Prüfungsbericht, der von der mit der internationalen vorläufigen Prüfung beauftragten Behörde nach Artikel 35 erstellt wurde und dem Anmelder gemäß Artikel 36 übermittelt wird. 2. Dieser BERICHT umfaßt insgesamt 6 Blätter einschließlich dieses Deckblatts. 3. Außerdem liegen dem Bericht ANLAGEN bei; diese umfassen <ul style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> (an den Anmelder und das Internationale Büro gesandt) insgesamt 2 Blätter; dabei handelt es sich um               <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Blätter mit der Beschreibung, Ansprüchen und/oder Zeichnungen, die geändert wurden und diesem Bericht zugrunde liegen, und/oder Blätter mit Berichtigungen, denen die Behörde zugestimmt hat (siehe Regel 70.16 und Abschnitt 607 der Verwaltungsvorschriften).</li> <li><input type="checkbox"/> Blätter, die frühere Blätter ersetzen, die aber aus den in Feld Nr. 1, Punkt 4 und im Zusatzfeld angegebenen Gründen nach Auffassung der Behörde eine Änderung enthalten, die über den Offenbarungsgehalt der Internationalen Anmeldung in der ursprünglich eingereichten Fassung hinausgeht.</li> </ul> </li> <li>b. <input type="checkbox"/> (nur an das Internationale Büro gesandt) insgesamt (bitte Art und Anzahl der/des elektronischen Datenträger(s) angeben), der/die ein Sequenzprotokoll und/oder die dazugehörigen Tabellen enthält/enthalten, nur in computerlesbarer Form, wie im Zusatzfeld betreffend das Sequenzprotokoll angegeben (siehe Abschnitt 802 der Verwaltungsvorschriften).</li> </ul>		
4. Dieser Bericht enthält Angaben zu folgenden Punkten: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Feld Nr. I Grundlage des Bescheids</li> <li><input type="checkbox"/> Feld Nr. II Priorität</li> <li><input type="checkbox"/> Feld Nr. III Keine Erstellung eines Gutachtens über Neuheit, erforderliche Tätigkeit und gewerbliche Anwendbarkeit</li> <li><input type="checkbox"/> Feld Nr. IV Mangelnde Einheitlichkeit der Erfindung</li> <li><input checked="" type="checkbox"/> Feld Nr. V Begründete Feststellung nach Artikel 35(2) hinsichtlich der Neuheit, der erforderlichen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur Stützung dieser Feststellung</li> <li><input type="checkbox"/> Feld Nr. VI Bestimmte angeführte Unterlagen</li> <li><input type="checkbox"/> Feld Nr. VII Bestimmte Mängel der internationalen Anmeldung</li> <li><input type="checkbox"/> Feld Nr. VIII Bestimmte Bemerkungen zur internationalen Anmeldung</li> </ul>		
Datum der Einreichung des Antrags 11.06.2005	Datum der Fertigstellung dieses Berichts 20.01.2006	
Name und Postanschrift der mit der internationalen Prüfung beauftragten Behörde  Europäisches Patentamt - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		
Bevollmächtigter Bediensteter Fiocco, M Tel. +31 70 340-4538		

# INTERNATIONALER VORLÄUFIGER BERICHT ÜBER DIE PATENTIERBARKEIT

Internationales Aktenzeichen  
PCT/EP2004/010721

## **Feld Nr. I Grundlage des Berichts**

1. Hinsichtlich der **Sprache** beruht der Bericht auf der internationalen Anmeldung in der Sprache, in der sie eingereicht wurde, sofern unter diesem Punkt nichts anderes angegeben ist.

Der Bericht beruht auf einer Übersetzung aus der Originalsprache in die folgende Sprache, bei der es sich um die Sprache der Übersetzung handelt, die für folgenden Zweck eingereicht worden ist:

internationale Recherche (nach Regeln 12.3 und 23.1 b))  
 Veröffentlichung der internationalen Anmeldung (nach Regel 12.4)  
 internationale vorläufige Prüfung (nach Regeln 55.2 und/oder 55.3)

2. Hinsichtlich der **Bestandteile\*** der internationalen Anmeldung beruht der Bericht auf (*Ersatzblätter, die dem Anmeldeamt auf eine Aufforderung nach Artikel 14 hin vorgelegt wurden, gelten im Rahmen dieses Berichts als "ursprünglich eingereicht" und sind ihm nicht beigefügt*):

## **Beschreibung, Seiten**

## 1-18 in der ursprünglich eingereichten Fassung

### **Ansprüche, Nr.**

eingegangen am 11.06.2005 mit Schreiber 15.00.00

einem Sequenzprotokoll und/oder etwaigen dazugehörigen Tabellen - siehe Zusatzfeld betreffend das Sequenzprotokoll

3.  Aufgrund der Änderungen sind folgende Unterlagen fortgefallen:

- Beschreibung: Seite
- Ansprüche: Nr.
- Zeichnungen: Blatt/Abb.
- Sequenzprotokoll (*genaue Angaben*):
- etwaige zum Sequenzprotokoll gehörende Tabellen (*genaue Angaben*):

4.  Dieser Bericht ist ohne Berücksichtigung (von einigen) der diesem Bericht beigefügten und nachstehend aufgelisteten Änderungen erstellt worden, da diese aus den im Zusatzfeld angegebenen Gründen nach Auffassung der Behörde über den Offenbarungsgehalt in der ursprünglich eingereichten Fassung hinausgehen (Regel 70.2 c)).

- Beschreibung: Seite
- Ansprüche: Nr.
- Zeichnungen: Blatt/Abb.
- Sequenzprotokoll (*genaue Angaben*):
- etwaige zum Sequenzprotokoll gehörende Tabellen (*genaue Angaben*):

\* Wenn Punkt 4 zutrifft, können einige oder alle dieser Blätter mit der Bemerkung "ersetzt" versehen werden.



Zu Punkt V

**Begründete Feststellung hinsichtlich der Neuheit, der erfinderischen Tätigkeit und der gewerblichen Anwendbarkeit; Unterlagen und Erklärungen zur Stützung dieser Feststellung**

1 Es wird auf das folgende Dokument verwiesen:

D3: EP-A-0 812 949 (CIBA SPECIALTY CHEMICALS HOLDING INC) 17. Dezember 1997 (1997-12-17)

2 UNABHÄNGIGER ANSPRUCH 1

Das Dokument D3 wird als nächstliegender Stand der Technik gegenüber dem Gegenstand des Anspruchs 1 angesehen. Es offenbart (vgl. **Beispiele 32 und 33**) ein Verfahren zur Behandlung von zellulosehaltigem Textil, von dem sich der Gegenstand des Anspruchs 1 dadurch unterscheidet, dass:

- 1) eine Vorbehandlung ausgeführt wird, und
- 2) das Copolymer partiell hydrolisiert wird.

Der Gegenstand des Anspruchs 1 ist somit neu (Artikel 33(2) PCT).

Die mit der vorliegenden Erfindung zu lösende Aufgabe kann somit darin gesehen werden, ein Verfahren zur Behandlung von zellulosehaltigem Textil zur Verfügung zu stellen, wobei die Ringfärbung vermieden ist.

Die in Anspruch 1 der vorliegenden Anmeldung für diese Aufgabe vorgeschlagene Lösung beruht aus den folgenden Gründen auf einer erfinderischen Tätigkeit (Artikel 33(3) PCT): einerseits ist in D3 vorgesehen (vgl. **Seite 5, Zeilen 34-38**), dass das in D3 beschriebene Verfahren eine Vorbehandlung sein kann; das Annehmen der oben genannte Massnahme 1 würde für den Fachmann naheliegend sein. Andererseits gibt es in D3 keinen Hinweis, dass die Ringfärbung vermieden werden könnte, wenn ein partiell hydrolisiertes Copolymer gemäss vorliegendem Anspruch 1 verwendet wäre.

3 ABHÄNGIGE ANSPRÜCHE 2-6

Die Ansprüche 2-6 sind vom Anspruch 1 abhängig und erfüllen damit ebenfalls die

NOTE: "Identification of drawings. Identifying indicia, if provided, should include the title of the invention, inventor's name and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin."

(complete the following, if applicable)

The enclosed drawing(s) are photograph(s).

NOTE: 37 C.F.R. 1.84

"(b) *Photographs*.

"(1) *Black and white. Photographs, including photocopies of photographs, are not ordinarily permitted in utility and design patent applications. The Office will accept photographs in utility and design patent applications, however, if photographs are the only practicable medium for illustrating the claimed invention. For example, photographs or photomicrographs of: electrophoresis gels, blots (e.g., immunological, western, Southern, and northern), auto radiographs, cell cultures (stained and unstained), histological tissue cross sections (stained and unstained), animals, plants, in vivo imaging, thin layer chromatography plates, crystalline structures, and, in a design patent application, ornamental effects, are acceptable. If the subject matter of the application admits of illustration by a drawing, the examiner may require a drawing in place of the photograph. The photographs must be of sufficient quality so that all details in the photographs are reproducible in the printed patent.*

Ringfärbung gefärbt werden kann.

Die in Anspruch 7 der vorliegenden Anmeldung für diese Aufgabe vorgeschlagene Lösung beruht aus den folgenden Gründen auf einer erfinderischen Tätigkeit (Artikel 33(3) PCT): es gibt in D3 keinen Hinweis, dass die Ringfärbung vermieden werden könnte, wenn ein partiell hydrolisiertes Copolymer gemäss vorliegendem Anspruch 1 auf das Textil appliziert wird.

## 5 ANSPRÜCHE 8-10

Der Gegenstand der Ansprüche 8 und 9 ist durch den Gegenstand des Anspruchs 7 gekennzeichnet, und erfüllt damit ebenfalls die Erfordernisse des PCT in bezug auf Neuheit und erfinderische Tätigkeit.

Anspruch 10 ist vom Anspruch 9 abhängig und erfüllt damit ebenfalls die Erfordernisse des PCT in bezug auf Neuheit und erfinderische Tätigkeit.

## 6 UNABHÄNGIGER ANSPRUCH 11

Das Dokument D3 wird als nächstliegender Stand der Technik gegenüber dem Gegenstand des Anspruchs 11 angesehen. Es offenbart (vgl. **Beispiele 32 und 33**) ein gefärbtes zellulosehaltiges Textil, von dem sich der Gegenstand des Anspruchs 11 dadurch unterscheidet, dass ein partiell hydrolisiertes Copolymer gemäss vorliegendem Anspruch 1 sich auf dem Textil befindet.

4. Additional papers enclosed

- Amendment to claims
  - Cancel in this application claims \_\_\_\_\_ before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
  - Add the claims shown on the attached amendment. (Claims added have been numbered consecutively following the highest numbered original claims.)
- Preliminary Amendment
- Information Disclosure Statement (37 C.F.R. § 1.98)
- Form PTO-1449 (PTO/SB/08A and 08B) 2p
- Citations
- Declaration of Biological Deposit
- Submission of "Sequence Listing," computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.
- Authorization of Attorney(s) to Accept and Follow Instructions from Representative
- Special Comments
- Other

5. Declaration or oath (including power of attorney)

**NOTE:** A newly executed declaration is not required in a continuation or divisional application provided that the prior nonprovisional application contained a declaration as required, the application being filed is by all or fewer than all the inventors named in the prior application, there is no new matter in the application being filed, and a copy of the executed declaration filed in the prior application (showing the signature or an indication thereon that it was signed) is submitted. The copy must be accompanied by a statement requesting deletion of the names of person(s) who are not inventors of the application being filed. If the declaration in the prior application was filed under § 1.47, then a copy of that declaration must be filed accompanied by a copy of the decision granting § 1.47 status or, if a nonsigning person under § 1.47 has subsequently joined in a prior application, then a copy of the subsequently executed declaration must be filed. See 37 C.F.R. §§ 1.63(d)(1)-(3).

**NOTE:** A declaration filed to complete an application must be executed, identify the specification to which it is directed, identify each inventor by full name including family name and at least one given name, without abbreviation together with any other given name or initial, and the residence, post office address and country or citizenship of each inventor, and state whether the inventor is a sole or joint inventor. 37 C.F.R. § 1.63(a)(1)-(4).

**NOTE:** The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by § 1.62, except as provided for in § 1.53(d)(4) and § 1.63(d). If an oath or declaration as prescribed by § 1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to § 1.53(b); unless a petition under this paragraph accompanied by the fee set forth in § 1.17(l) is filed supplying or changing the name or names of the inventor or inventors. 37 C.F.R. § 1.41(a)(1).

Enclosed

Executed by

(check all applicable boxes)

inventor(s).

legal representative of inventor(s). 37 C.F.R. §§ 1.42 or 1.43.

- joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.
- This is the petition required by 37 C.F.R. § 1.47 and the statement required by 37 C.F.R. § 1.47 is also attached. See item 13 below for fee.
- Not Enclosed.

*NOTE: Where the filing is a completion in the U.S. of an International Application or where the completion of the U.S. application contains subject matter in addition to the International Application, the application may be treated as a continuation or continuation-in-part, as the case may be, utilizing ADDED PAGE FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION CLAIMED.*

- Application is made by a person authorized under 37 C.F.R. § 1.41(c) on behalf of *all* the above named inventor(s).

*(The declaration or oath, along with the surcharge required by 37 C.F.R. § 1.16(e) can be filed subsequently).*

- Showing that the filing is authorized.  
*(not required unless called into question. 37 C.F.R. § 1.41(d))*

#### 6. Inventorship Statement

*WARNING: If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.*

The inventorship for all the claims in this application are:

- The same.

or

- Not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made,
  - is submitted.
  - will be submitted.

#### 7. Language

*NOTE: An application including a signed oath or declaration may be filed in a language other than English. An English translation of the non-English language application and the processing fee of \$130.00 required by 37 C.F.R. § 1.17(k) is required to be filed with the application, or within such time as may be set by the Office. 37 C.F.R. § 1.52(d).*

- English

- Non-English

- The attached translation includes a statement that the translation is accurate. 37 C.F.R. § 1.52(d).

#### 8. Assignment

- An assignment of the invention to \_\_\_\_\_

---

- is attached. A separate  "COVER SHEET FOR ASSIGNMENT (DOCUMENT) ACCOMPANYING NEW PATENT APPLICATION" or  FORM PTO 1595 is also attached.

- will follow.

*NOTE: "If an assignment is submitted with a new application, send two separate letters-one for the application and one for the assignment." Notice of May 4, 1990 (1114 O.G. 77-78).*

*WARNING: A newly executed "CERTIFICATE UNDER 37 C.F.R. § 3.73(b)" must be filed when a continuation-in-part application is filed by an assignee. Notice of April 30, 1993, 1150 O.G. 62-64.*

This is a  continuation  divisional application and the assignment document for the parent application 0 / \_\_\_\_\_ was filed on \_\_\_\_\_

Reel \_\_\_\_\_

Frame \_\_\_\_\_

9. Certified Copy

Certified copy(ies) of application(s)

Country	Appln. No.	Filed
Country	Appln. No.	Filed
Country	Appln. No.	Filed

from which priority is claimed

- is (are) attached.
- will follow.

NOTE: 37 C.F.R. § 1.55 Claim for foreign priority.

"(a) . . .

(1)(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time periods in this paragraph do not apply in an application under 35 U.S.C. 111(a) if the application is:

- (A) A design application; or
- (B) An application filed before November 29, 2000.

• . . .

(c) Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)-(d) or 365(a) must be accompanied by:

(1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;

(2) The surcharge set forth in § 1.17(t); and

(3) A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional."

NOTE: 37 C.F.R. § 1.63 Oath or declaration.

"(a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:  
• • •

(c) Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:

(2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing."

The foreign application forming the basis for the claim for priority must be referred to in the oath or declaration. 37 C.F.R. § 1.55(a) and 1.63.

NOTE: This item is for any foreign priority for which the application being filed directly relates. If any parent U.S. application or International Application from which this application claims benefit under 35 U.S.C. § 120 is itself entitled to priority from a prior foreign application, then complete item 18 on the ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED.

#### 10. Fee Calculation (37 C.F.R. § 1.16)

A.  Regular application

CLAIMS AS FILED				
Number filed	Number Extra	Rate	Basic Fee	37 C.F.R. § 1.16(a)
			\$ 770.00	
Total				
Claims (37 C.F.R. § 1.16(c))	24. - 20 = 4	× \$ 18.00	\$ 72.00	
Independent				
Claims (37 C.F.R. § 1.16(b))	4 - 3 = 1	× \$ 84.00	\$ 86.00	
Multiple dependent claim(s), if any (37 C.F.R. § 1.16(d))		+ \$280.00		

Amendment cancelling extra claims is enclosed.  
 Amendment deleting multiple-dependencies is enclosed.  
 Fee for extra claims is not being paid at this time.

NOTE: If the fees for extra claims are not paid on filing they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Patent and Trademark Office in any notice of fee deficiency. 37 C.F.R. § 1.16(d).

Filing Fee Calculation \$ 928.00

B.  Design application  
(\$330.00—37 C.F.R. § 1.16(f))

Filing Fee Calculation \$ \_\_\_\_\_

C.  Plant application  
(\$510.00—37 C.F.R. § 1.16(g))

Filing fee calculation \$ \_\_\_\_\_

## 11. Assertion of Small Entity Status

Applicant hereby asserts status as a small entity under 37 C.F.R. § 1.27

NOTE: 37 C.F.R. § 1.27(c) deals with the assertion of small entity status, whether by a written specific declaration thereof or by payment as a small entity of the basic filing fee or the fee for the entry into the national phase and states:

"(c) Assertion of small entity status. Any party (person, small business concern or nonprofit organization) should make a determination, pursuant to paragraph (f) of this section, of entitlement to be accorded small entity status based on the definitions set forth in paragraph (a) of this section, and must, in order to establish small entity status for the purpose of paying small entity fees, actually make an assertion of entitlement to small entity status, in the manner set forth in paragraphs (c)(1) or (c)(3) of this section, in the application or patent in which such small entity fees are to be paid.

(1) Assertion by writing. Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:

- (i) Be clearly identifiable;
- (ii) Be signed (see paragraph (c)(2) of this section); and
- (iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement.

(2) Parties who can sign and file the written assertion. The written assertion can be signed by:

- (i) One of the parties identified in § 1.33(b) (e.g., an attorney or agent registered with the Office), § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;
- (ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or
- (iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part.

(3) Assertion by payment of the small entity basic filing or basic national fee. The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), (f), (g), (h), or (k), or one of the small entity basic national fees set forth in §§ 1.492(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5), will be treated as a written assertion of entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error.

- (i) If the Office accords small entity status based on payment of a small entity basic filing or basic national fee under paragraph (c)(3) of this section that is not applicable to that application, any balance of the small entity fee that is applicable to that application will be due along with the appropriate surcharge set forth in § 1.16(e), or § 1.16(l).
- (ii) The payment of any small entity fee other than those set forth in paragraph (c)(3) of this section (whether in the exact fee amount or not) will not be treated as a written assertion of entitlement to small entity status and will not be sufficient to establish small entity status in an application or a patent."

**WARNING:** 37 C.F.R. § 1.27(c)(4): "Assertion required in related, continuing, and reissue applications. Status as a small entity must be specifically established by an assertion in each related, continuing and reissue application in which status is appropriate and desired. Status as a small entity in one application or patent does not affect the status of any other application or patent, regardless of the relationship of the applications or patents. The refiling of an application under § 1.53 as a continuation, divisional, or continuation-in-part application (including a continued prosecution application under § 1.53(d)), or the filing of a reissue application, requires a new assertion as to continued entitlement to small entity status for the continuing or reissue application."

**WARNING:** "Small entity status must not be established when the person or persons signing the . . . statement can unequivocally make the required self-certification." M.P.E.P., § 509.03 (emphasis added).

(complete the following, if applicable)

Status as a small entity was asserted in the prior application

\_\_\_\_\_ / \_\_\_\_\_, filed on \_\_\_\_\_, from which benefit is being claimed for this application under:

35 U.S.C. §  119(e)  
 120  
 121  
 365(c)

and which status as a small entity is still proper and asserted for this application.

A copy of the written assertion of small entity filed in the prior application is included.

**NOTE:** A refund based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. 37 C.F.R. § 1.28(a).

Filing Fee Calculation (50% of A, B or C above)

\$ 464.00

**12. Request for International-Type Search (37 C.F.R. § 1.104(d))**

(complete, if applicable)

Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

13. Fee Payment Being Made at This Time

Not Enclosed

No filing fee is to be paid at this time.

*(This and the surcharge required by 37 C.F.R. § 1.16(e) can be paid subsequently.)*

Enclosed

Filing fee

\$ 464.00

Recording assignment

*(\$40.00; 37 C.F.R. § 1.21(h))*

*(See attached "COVER SHEET FOR  
ASSIGNMENT ACCOMPANYING NEW  
APPLICATION".)*

\$ \_\_\_\_\_

Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached

*(\$130.00; 37 C.F.R. §§ 1.47 and 1.17(l))*

\$ \_\_\_\_\_

For processing an application with a specification in

*a non-English language*

*(\$130.00; 37 C.F.R. §§ 1.52(d) and 1.17(k))*

\$ \_\_\_\_\_

Processing and retention fee

*(\$130.00; 37 C.F.R. §§ 1.53(d) and 1.21(l))*

\$ \_\_\_\_\_

Fee for international-type search report

*(\$40.00; 37 C.F.R. § 1.21(e))*

\$ \_\_\_\_\_

**NOTE:** 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application that is abandoned for failing to complete the application pursuant to 37 C.F.R. § 1.53(l) and this, as well as the changes to 37 C.F.R. §§ 1.53 and 1.78(a)(1), indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid, or the processing and retention fee of § 1.21(l) must be paid, within 1 year from notification under § 53(l).

Total fees enclosed \$ 464.00

14. Method of Payment of Fees

Attached is a  check  money order in the amount of \$ 464.00

Authorization is hereby made to charge the amount of \$ \_\_\_\_\_

to Deposit Account No. \_\_\_\_\_

to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.



16805 U.S.PTO  
012004

COPY

13. Fee Payment Being Made at This Time

Not Enclosed

No filing fee is to be paid at this time.

*(This and the surcharge required by 37 C.F.R. § 1.16(e) can be paid subsequently.)*

Enclosed

Filing fee

\$ 464.00

Recording assignment

*(\$40.00; 37 C.F.R. § 1.21(h))*

*(See attached "COVER SHEET FOR  
ASSIGNMENT ACCOMPANYING NEW  
APPLICATION".)*

\$ \_\_\_\_\_

Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached

*(\$130.00; 37 C.F.R. §§ 1.47 and 1.17(l))*

\$ \_\_\_\_\_

For processing an application with a specification in a non-English language

*(\$130.00; 37 C.F.R. §§ 1.52(d) and 1.17(k))*

\$ \_\_\_\_\_

Processing and retention fee

*(\$130.00; 37 C.F.R. §§ 1.53(d) and 1.21(l))*

\$ \_\_\_\_\_

Fee for international-type search report

*(\$40.00; 37 C.F.R. § 1.21(e))*

\$ \_\_\_\_\_

**NOTE:** 37 C.F.R. § 1.21(l) establishes a fee for processing and retaining any application that is abandoned for failing to complete the application pursuant to 37 C.F.R. § 1.53(l) and this, as well as the changes to 37 C.F.R. §§ 1.53 and 1.78(a)(1), indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee must be paid, or the processing and retention fee of § 1.21(l) must be paid, within 1 year from notification under § 53(l).

Total fees enclosed \$ 464.00

14. Method of Payment of Fees

Attached is a  check  money order in the amount of \$ 464.00

Authorization is hereby made to charge the amount of \$ \_\_\_\_\_

to Deposit Account No. \_\_\_\_\_

to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

## 15. Authorization to Charge Additional Fees

**WARNING:** If no fees are to be paid on filing, the following items should not be completed.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

The Office is hereby authorized to charge, in the manner shown above, the following additional fees that may be required by this paper and during the entire pendency of this application.

37 C.F.R. § 1.16(a), (f) or (g) (filing fees)

37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid for these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

37 C.F.R. § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

37 C.F.R. § 1.17(a)(1)–(5) (extension fees pursuant to § 1.136(a)).

37 C.F.R. § 1.17 (application processing fees)

**NOTE:** ". . . A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b))

**NOTE:** Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. § 1.311(b).

**NOTE:** 37 C.F.R. § 1.28(b) requires "Notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying, . . . the issue fee. . ." From the wording of 37 C.F.R. § 1.28(b), (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

## 16. Instructions as to Overpayment

**NOTE:** ". . . Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

Credit Account No. \_\_\_\_\_

Refund

Reg. No. 20,109

Tel. No. (847) 304-1500

Customer No. 30114

Charles F. Meroni, Jr.

SIGNATURE OF PRACTITIONER

Charles F. Meroni, Jr.

(type or print name of attorney)

P.O. Box 309

P.O. Address

Barrington, IL 60011

(New Application Transmittal [4-1]—page 13 of 15)

**Incorporation by reference of added pages**

*(check the following item if the application in this transmittal claims the benefit of prior U.S. application(s) (including an international application entering the U.S. stage as a continuation, divisional or C-I-P application) and complete and attach the ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OF PRIOR U.S. APPLICATION(S) CLAIMED)*

Plus Added Pages for New Application Transmittal Where Benefit of Prior U.S. Application(s) Claimed

Number of pages added \_\_\_\_\_

Plus Added Pages for Papers Referred to in Item 4 Above

Number of pages added 5

Plus added pages deleting names of inventor(s) named in prior application(s) who is/are no longer inventor(s) of the subject matter claimed in this application.

Number of pages added \_\_\_\_\_

Plus "Assignment Cover Letter Accompanying New Application"

Number of pages added \_\_\_\_\_

**Statement Where No Further Pages Added**

*(if no further pages form a part of this Transmittal, then end this Transmittal with this page and check the following item)*

This transmittal ends with this page.